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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,222	12/22/2003	Timothy J. Blenke	KCC 4932 (K-C 18,580)	7640
321 7590 03/19/2007 SENNIGER POWERS ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			EXAMINER KRUER, KEVIN R	
			ART UNIT 1773	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE		DELIVERY MODE
3 MONTHS		03/19/2007		ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/19/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

## Office Action Summary

Application No.

10/743,222

Applicant(s)

BLENKE ET AL.

Examiner

Kevin R. Krueer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2007.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42, 52-68, 78-94 and 104 is/are pending in the application.  
4a) Of the above claim(s) 11, 12, 14, 15, 17-25, 27-42, 52-68, 78, 89, 90, 92 and 93 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-10, 13, 16, 26, 79-88, 91, 94 and 104 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 11, 12, 14, 15, 17-25, 27-42, 52-68, 78, 89, 90, 92, and 93 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention/species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 27, 2005.

### ***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-10, 13, 16, 26, 79-88, 91, 94, and 104 are rejected under 35 U.S.C. 102(b) as being anticipated by Zhou et al (US 2002/0123538A1).

Zhou teaches an adhesive comprising an atactic polymer having a degree of crystallinity of less than about 20% and a number average molecular weight between about 1,000 and 300,000; and an isotactic polymer having a degree of crystallinity of at least about 40% and a number-average molecular weight between about 3,000 and 200,000 (claim 1). The atactic polymer may be polypropylene (claim 18), as is the isotactic polymer (claim 21). The adhesive is melt processable at less than about 4000 degrees Fahrenheit (claim 11) and the adhesive has a melt index of about 100 to about 20000 grams per 10min (claim 14). The atactic polymer comprises about 50-90wt% atactic polymer and between about 5-50wwt% isotactic polymer (claim 17). The adhesive may comprise various filler 90071) and may be used to bond polyethylene to polypropylene (paragraph 0059 and 0072).

The examiner further notes that the adhesive may be utilized to laminate absorbent articles such as those incorporated by reference in paragraph 0072. One of said references, US 5,176,668, teaches the bonding together of a polypropylene liner and a polyethylene outer film (col 7, lines 24+). A second of said incorporated references, US 5,904,672, also teaches bonding polypropylene to polyethylene (col 6, lines 9-47 and examples). Since polyethylene and polypropylene are applicant's elected species, said films are understood to read on the "dissimilar material" limitations of the pending claims.

#### ***Response to Arguments***

Applicant's arguments filed January 9, 2007 have been fully considered but they are not persuasive.

Applicant argues that "dissimilar" is defined in the specification (paragraph 0023) as materials having melting points that vary by more than about 40F and have dissimilar molecular structures such that upon ultrasonic bonding, the material are not brought together as one material and typically have macro-phase separation. Said definition is noted. The examiner took the position that the polyethylene and polypropylene materials anticipated by Zhou met said "dissimilar" limitation because polypropylene and polyethylene are applicant's elected "dissimilar" materials. The examiner respectfully disagrees that Zhou does not teach a laminate structure comprising an adhesive, a first material and a second material wherein the first and second materials are "dissimilar" and are ultrasonically bonded together. The examiner initially notes that there is no evidence ultrasonic bonding results in a materially different product. Furthermore, Zhou

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teaches the claimed adhesive and teaches it may be used to ultrasonically bond laminates together. Proposed laminates include those enumerated in US'668 and US'672, each of which teaches a polypropylene adhered to a polyethylene. Since Zhou teaches the claimed adhesive, the claimed method of bonding, and the claimed dissimilar materials, the examiner maintains the position that Zhou anticipates the claimed invention.

Applicant's arguments with regards to the examples of Zhou are not persuasive because the teachings of the reference are not limited to preferred embodiments and examples included in the disclosure. Applicant argues neither '668 nor '672 teaches bonding the polyethylene and polypropylenes together utilizing ultrasonic bonding. Said argument is noted but is not persuasive because neither reference was relied upon for such a teaching. Rather, Zhou teaches that the adhesive taught therein may be used to ultrasonically bond different materials, such as those taught in '668 and '672.

For the reasons noted above, the rejection is maintained.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R. Kruer whose telephone number is 571-272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin R. Kruer  
Patent Examiner-Art Unit 1773